

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

THE CITY OF HUNTINGTON,

Plaintiff,

v.

AMERISOURCEBERGEN DRUG
CORPORATION, *et al.*

Defendants.

Civil Action No. 3:17-01362

CABELL COUNTY COMMISSION,

Plaintiff,

v.

AMERISOURCEBERGEN DRUG
CORPORATION, *et al.*

Defendants.

Civil Action No. 3:17-01665

**NOTICE OF SUPPLEMENTAL AUTHORITY RELATED TO DEFENDANTS'
MOTION TO EXCLUDE THE RULE 30(b)(6) DEPOSITION
TESTIMONY OF THOMAS PREVOZNIK**

On May 2, 2021, Defendants filed a Motion to Exclude the Rule 30(b)(6) Deposition Testimony of Thomas Prevoznik (“Motion”) based on Mr. Prevoznik’s lack of personal knowledge. ECF No. 1310. Defendants stated that the MDL Court did not address the subject of the Motion. Plaintiffs did not say otherwise in their opposition. While reviewing the MDL order on motions in limine for another purpose, however, Defendants were reminded that they did raise this issue in the Track One MDL litigation. *See In re Nat’l Prescription Opiate Litigation*, MDL

No. 2804, ECF No. 2666 at 7 (N.D. Ohio 2019).¹ Pursuant to the Court's directive to indicate whether a motion raises an issue previously raised to the MDL court, Defendants hereby notify the Court of Judge Polster's ruling on that issue. *Id.* at 34.

Judge Polster denied Defendants' motion without prejudice, stating that he would not "make a blanket ruling on the issue and instead w[ould] address matters at trial in context, as they arise." *Id.* Judge Polster further noted that "the normal hearsay rules apply to a corporate representative's testimony at trial, *i.e.*, unless the information falls within one of the authorized exceptions to the hearsay rule, a Rule 30(b)(6) witness may not testify to matters outside his or her personal knowledge." *Id.* at 34 n.65. Unlike in the MDL, the parties here have already submitted specific designations of Mr. Prevoznik's deposition testimony to the Court, so that the Court can properly consider whether the designated testimony is based on Mr. Prevoznik's personal knowledge.

¹ Defendants have appended Judge Polster's order opinion to multiple other filings in this case. *See, e.g.*, ECF No. 1331-2.

Dated: May 26, 2021

Respectfully Submitted,

AmerisourceBergen Drug Corporation

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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that on this 26th day of May, 2021, the foregoing Memorandum was served using the Court's CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Gretchen M. Callas